SBCivil Writ Petition No.4542/2006

Smt.Krishna Arora
Vs.
State of Rajasthan & Ors.

Date of Order :: 8th September, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. V.K.Sharma, for the petitioner.

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By an order dated 16.1.1984 passed by Vikas Adhikari, Panchayat Samiti, Suratgarh the petitioner was employed as Teacher Gr.III in Panchayat Samiti, Suratgarh on adhoc basis. The services of the petitioner were extended by the respondents time to time. The services of the petitioner were regularised as Teacher Gr.III by the District Establishment Committee, Sriganganagar by holding a screening under the Government of Rajasthan order dated 6.4.1988. Consequent thereto the petitioner became member of Rajasthan Panchayat Samiti and Zila Parishad Subordinate Service w.e.f. 5.12.1988. The respondents declared an eligibility list of the Teachers Gr.III to be considered for the purpose of promotion to the post of Teacher Gr.II which is on record as Anx.9. In the eligibility list seniority of the petitioner is determined from the date she was screened and her services were regularised as Teacher Gr.III i.e. 5.12.1988. Being aggrieved by the same the petitioner submitted representation to the District Education Officer (Secondary) Sriganganagar with a request to

reckon her seniority from the date of her appointment in adhoc capacity as Teacher Gr.III i.e. 16.1.1984. The District Education Officer (Secondary), Sriganganagar by a communication dated 8.8.2006 rejected the claim of the petitioner on the count that her services prior to screening w.e.f. 5.12.1988 were in adhoc capacity, therefore, the same cannot be taken into consideration to determine seniority.

By this petition for writ the petitioner has claimed for her placement in seniority list by taking into consideration 16.1.1984 as a date of her initial appointment. To substantiate the claim the petitioner has placed reliance upon proviso 6B of Rule 29(5) of the Rajasthan Educational Subordinate Service Rules, 1971, that reads as under:-

> "6B.Notwithstanding anything contained in the rules specified in cloumn 3, a person holding substantively a post of (i)Village Level worker, (ii)Lady Village Level worker and (iii)Teacher of Primary School under the Rajasthan Panchayat Samiti and Zila Parishad Service shall be eligible for promotion to posts of the next higher category, as may be determined by the Appointing Authority in the Service which are not in the purview of the Rajasthan Public Service Commission, provided he fulfills the condisions laid down in these Rules for appointment by promotions to those posts. The service of the persons, so entitled for promotion, for the period of their holding such posts in

> the Rajasthan Panchayat Samiti and Zila Parishad Service shall be counted towards seniority for the purpose of promotion in the Service in accordance with the provisions of rule mentioned in proviso (5) to rule 29."

The contention of counsel for the petitioner is that the petitioner is a member of Rajasthan Panchayat Samiti and Zila Parishad Service since 16.1.1984, therefore, in view of the proviso 6B to Rule 29(5) of the Rules of 1971, her seniority is required to be reckoned from the date of her initial appointment i.e. 16.1.1984.

Heard counsel for the petitioner.

In accordance with the provisio 6B to Rule 29 (5) of the Rules of 1971 the service of the persons entitled for promotion to the post of Teacher Gr.II is required to be reckoned from the date of holding a post in Rajasthan Panchayat Samiti and Zila Parishad Service. In the instant matter the question required to be determined is about the date from which the petitioner become member of Rajasthan Panchayat Samiti and Zila Parishad Service. Under the Rajasthan Rural Development and Panchayati Raj State and Subordinate Service Rules, 1998 the term "service" is defined as under:-

> “2(h)”Service” means the Rajasthan Rural Development and Panchayati Raj State Service and the Rajasthan Rural Development and Panchayati Raj Subordinate Service, as the case may be.”

The composition and constitution of Rajasthan Rural Development and Panchayat Raj Subordinate Service is given in para II of the Rules of 1998. According to Rule 5 the service shall consist of all persons holding substantively the post/posts specified in schedule-I and schedule-II on the date of commencement of these rules, all persons recruited to the post/posts include in the service before commencement of these rules, all persons recruited in accordance with these rules and in accordance with the Rajasthan Panchayat Service Rules 1955, the Rajasthan Panchayat Subordinate Service Rules, 1973 and the Rajasthan Subordinate Service (Recruitment and other Service Conditions) Rules, 1960, <u>except urgent temporary appointments</u> under Rule 31.

The appointment of the petitioner was made under the Rajasthan Panchayat Subordinate Service Rules, 1973 in the year 1988 and prior to that she was working in adhoc capacity, as such at the first instance she become member of service on 5.12.1988. The services rendered by the petitioner, therefore, prior to becoming member of service in view of the provisions of proviso 6B to Rule 29(5) of the Rules of

1971 cannot be taken into consideration to determine her seniority in the cadre of teachers Gr.III.

In view of whatever stated above, I do not find any merit in this writ petition. The same, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.